Public Law 97-365
97th Congress

An Act

To increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States.

Oct. 25, 1982
[H.R. 4613]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Debt Collection Act of 1982".

Debt Collection Act of 1982.
5 USC 5514 note.

AMENDMENTS TO THE PRIVACY ACT

SEC. 2. (a) Section 552a(b) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12) to a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)).".

Infra.

(b) Section 552a(m) of such title is amended—

(1) by inserting "(1)" immediately after "(m)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A consumer reporting agency to which a record is disclosed under section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)) shall not be considered a contractor for the purposes of this section.".

AMENDMENT TO THE FEDERAL CLAIMS COLLECTION ACT OF 1966

SEC. 3. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

Information disclosure.

"(d)(1) Whenever the head of an agency attempts to collect a claim of the United States under subsection (a) of this section, or under any other statutory authority except the Internal Revenue Code of 1954, the head of the agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

26 USC 1 *et seq.*

"(A) the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and determined that such claim is valid and overdue;

"(C) the head of the agency has sent a written notice to the individual informing such individual—

"(i) that the payment of the claim is overdue;

"(ii) that the agency intends to disclose to a consumer reporting agency, within not less than sixty days after

sending such notice, that the individual is responsible for such claim;

"(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

"(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and to administrative appeal or review with respect to the claim;

"(D) such individual has not—

"(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to the head of the agency and is in a written form signed by such individual; or

"(ii) filed for review of such claim under paragraph (2) of this subsection;

"(E) the agency has established procedures (i) for promptly disclosing, to each consumer reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim, (ii) for promptly verifying or correcting, as appropriate, information concerning the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed, and (iii) for obtaining satisfactory assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law governing the provision of consumer credit information; and

"(F) the information disclosed to the consumer reporting agency is limited to (i) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (ii) the amount, status, and history of the claim, and (iii) the agency or program under which the claim arose.

Review of individual obligation.

"(2) Prior to a disclosure to any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law, the head of the agency shall, upon request of any individual alleged by the agency to be responsible for the claim, provide for the review of the obligation of such individual, including an opportunity for reconsideration of the initial decision concerning the claim.

"(3) If an agency does not have a current address for an individual for the purpose of sending the notice required by paragraph (1)(C), the agency shall take reasonable action to locate the individual prior to disclosing any information to a consumer reporting agency under paragraph (1).

Definitions.

"(4) For purposes of this subsection—

"(A) the term 'consumer reporting agency' means—

"(i) a consumer reporting agency within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(ii) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this subparagraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies;

"(B) the term 'system of records' has the meaning given such term under section 552a(a)(5) of title 5, United States Code; and

"(C) the term 'head of an agency' includes a designee of the head of an agency.".

REQUIREMENT THAT APPLICANT FURNISH TAXPAYER IDENTIFYING NUMBER

SEC. 4. (a) IN GENERAL.—Each Federal agency administering an included Federal loan program shall require any person applying for a loan under such program to furnish such person's taxpayer identifying number. 26 USC 6103 note.

(b) DEFINITIONS.—For purposes of this section—

(1) INCLUDED FEDERAL LOAN PROGRAM.—The term "included Federal loan program" has the meaning given to such term by subparagraph (C) of section 6103(l)(3) of the Internal Revenue Code of 1954 (as added by section 7 of this Act).

(2) TAXPAYER IDENTIFYING NUMBER.—The term "taxpayer identifying number" has the meaning given to such term by section 6109 of such Code. 26 USC 6109.

SALARY OFFSET

SEC. 5. (a) Subsection (a) of section 5514 of title 5, United States Code, is amended to read as follows:

"(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned.

"(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

"(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection; Written notice.

"(B) an opportunity to inspect and copy Government records relating to the debt; Record inspection.

"(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or Written agreement.

his designee, to establish a schedule for the repayment of the debt; and

Hearing.

"(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

Petition filing.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.

"(3) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

Definitions.

"(4) For purposes of this subsection—

"(A) 'disposable pay' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

"(B) 'agency' includes the United States Postal Service and the Postal Rate Commission.".

(b) Section 5514(b) of title 5, United States Code, is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.".

(c) The section heading of section 5514 of title 5, United States Code, is amended to read as follows:

"§ 5514. Installment deduction for indebtedness to the United States".

PROTECTION OF FEDERAL DEBT COLLECTORS

SEC. 6. Section 1114 of title 18, United States Code, is amended—

(1) by striking out "or" before "any attorney"; and

(2) by inserting before "shall be punished" a comma and the following: "or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority".

SCREENING POTENTIAL DEBTORS

SEC. 7. (a) DISCLOSURE TO FEDERAL LENDING AGENCY THAT APPLICANT HAS TAX DELINQUENT ACCOUNT.—Paragraph (3) of section

6103(l) of the Internal Revenue Code of 1954 is amended to read as follows: 26 USC 6103.

"(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—

"(A) IN GENERAL.—Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

"(B) RESTRICTION ON DISCLOSURE.—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

"(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term 'included Federal loan program' means any program—

"(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

"(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 6103(p)(3)(C) of such Code is amended by striking out "(l) (3) or (6)" and inserting in lieu thereof "(l)(6)".

(2) Paragraph (4) of section 6103(p) of such Code is amended—

(A) by striking out "(l) (1), (2)," in the matter preceding subparagraph (A) and inserting in lieu thereof "(l) (1), (2), (3),",

(B) by striking out "(l) (3), (6)," and inserting in lieu thereof "(l)(6),", and

(C) by striking out "(l) (1), (2), or (5), or (o)(1), the commission described in subsection (l)(3)" in subparagraph (F)(ii) and inserting in lieu thereof "(l) (1), (2), (3), or (5), or (o)(1),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of loan applications made after September 30, 1982. 26 USC 6103 note.

DISCLOSURE OF MAILING ADDRESS TO THIRD PARTIES FOR PURPOSES OF COLLECTING FEDERAL CLAIMS

SEC. 8. (a) Paragraph (2) of section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended to read as follows: 26 USC 6103.

"(2) FEDERAL CLAIMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).

"(B) SPECIAL RULE FOR CONSUMER REPORTING AGENCY.—In the case of an agent of a Federal agency which is a consum-

er reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)."

26 USC 6103.

(b) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by adding at the end thereof the following new sentence: "In the case of any agency which receives any mailing address under subsection (m) (2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency)."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6103(a) of such Code is amended by striking out "subsection (m)(4)(B)" and inserting in lieu thereof "paragraph (2) or (4)(B) of subsection (m)".

26 USC 7213.

(2) Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(m)(4)" and inserting in lieu thereof "(m) (2) or (4)".

26 USC 6103 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

5 USC 5514 note.

(e) Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section, nothing in this Act (or in the amendments made by this Act) shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1954, the Social Security Act, or the tariff laws of the United States.

26 USC 1 *et seq.*
42 USC 1305.

STATUTE OF LIMITATIONS WITH RESPECT TO ADMINISTRATIVE OFFSETS

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting any claim of the United States by means of administrative offset, in accordance with section 5 of the Federal Claims Collection Act of 1966.".

Infra.

ADMINISTRATIVE OFFSETS

SEC. 10. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) is amended—

31 USC 951 note.

(1) by redesignating section 5 as section 6; and

(2) by adding the following new section 5:

31 USC 954.

"SEC. 5. (a) The head of an agency or his designee may, after attempting to collect a claim from a person under section 3(a) of this Act, collect the claim by means of administrative offset, except that no claim under this Act that has been outstanding for more than ten years may be collected by means of administrative offset.

"(b) The head of an agency or his designee may not collect any claim by administrative offset authorized by subsection (a) unless the agency head has prescribed regulations for the exercise of such administrative offset, based on the best interests of the United States, the likelihood of collecting a claim by administrative offset,

and, with respect to the collection of claims by means of administrative offset after the six-year period provided in section 2415 of title 28, United States Code, has expired for bringing an action on such a claim, the cost effectiveness of leaving such claim unresolved for more than six years.

"(c) Prior to collecting any claim through administrative offset, the head of the agency or his designee shall provide the debtor with— Provisions affecting debtor.

"(1) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

"(2) an opportunity to inspect and copy the records of the agency with respect to the claim;

"(3) an opportunity for the review, within the agency, of the determination of the agency with respect to the claim; and

"(4) an opportunity to enter into a written agreement with the head of the agency or his designee, for the repayment of the amount of the claim.

"(d) The provisions of this section shall not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

"(e) For purposes of this section—

"(1) the term 'administrative offset' means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and "Administrative offset."

"(2) the term 'person' does not include any agency of the United States, or of any State or local government.". "Person."

INTEREST AND PENALTY ON INDEBTEDNESS TO THE UNITED STATES

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection:

"(e)(1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts on claims owed by persons that is equal to the average investment rate for the Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and such rate shall become effective on the first day of the next calendar quarter. The Secretary of the Treasury may revise such rate quarterly if the average investment rate for the twelve-month period ending at the close of that calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by 2 per centum. For purposes of this paragraph, 'calendar quarter' means any three-month period beginning on January 1, April 1, July 1, or October 1. Publication of rate. "Calendar quarter."

"(2) Except as provided in paragraph (3), the head of an agency or his designee shall, with respect to claims owed by persons—

"(A) assess charges to cover the costs of processing and handling delinquent claims, and

"(B) assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due.

"(3) Interest and charges under paragraphs (1) and (2) shall not apply if an applicable statute, a regulation required by statute, a loan agreement, or a contract either prohibit the charging of interest or charges, or explicitly fix interest or charges that apply to claims involved. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of paragraphs (1) and (2).

Waivers.

"(4) This subsection shall not apply to any claim under a contract which is executed before the effective date of this subsection and which is in effect on that date.

Interest accrual.

"(5) Subject to paragraph (6), interest under paragraph (1) shall accrue—

"(A) except as provided in subparagraph (B), from the date on which notification of the amount due on the claim is first mailed to the debtor (using the most current address of such debtor that is available to the head of the agency or his designee); or

"(B) if such notification was first mailed before the date of the enactment of the Debt Collection Act of 1982, from the date on which such notification is first mailed after such date of enactment.

Ante, p. 1749.

The rate of interest to be charged on a claim under paragraph (1) shall be the rate in effect on the date from which interest accrues on the claim under subparagraph (A) or (B), and shall remain fixed at that rate for the duration of the indebtedness.

"(6) Interest under paragraph (1) shall not be charged if the amount due on the claim is paid within thirty days after the date from which interest accrues under paragraph (5). The head of an agency may extend such thirty-day period.

"(7) Interest under this subsection shall not accrue on any charges assessed pursuant to paragraph (2) of this subsection.

"Person."

"(8) For purposes of this subsection, the term 'person' does not include any agency of the United States or any State or local government."

REPORT ON AGENCY DEBT COLLECTION ACTIVITIES

31 USC 955.

SEC. 12. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Secretary of the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency. The report shall contain information regarding—

(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

(2) the total amount of receivables and number of claims that are at least thirty days past due;

(3) the total amount written off as uncollectable, actual, and allowed for;

(4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) the total number of claims and total amount collected;

(6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

(7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and

(8) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.

(b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress on the management of agency debt collection activities, including the information provided to the Director under subsection (a) above. Report to Congress.

CONTRACTS FOR COLLECTION SERVICES

SEC. 13. (a) Section 3617 of the Revised Statutes (31 U.S.C. 484) is amended by striking out "section 487" and inserting in lieu thereof "sections 487 and 952(g)(2)".

(b) Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by sections 3 and 11 of this Act) is further amended by adding at the end thereof the following new subsections:

"(f)(1) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code of 1954, the head of an agency or his designee may enter into a contract with any person or organization, under such terms and conditions as the head of the agency or his designee considers appropriate, for collection services to recover indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and refer the matter to the Attorney General to initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, to the extent provided in subsection (m) of that section, and shall be subject to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

"(2) Notwithstanding section 3617 of the Revised Statutes (31 U.S.C. 484), the head of an agency or his designee may provide, as part of a contract described in paragraph (1), that appropriate fees charged by a contractor to recover indebtedness owed to the United States may be payable from the amount collected by such contractor. Contractor fees.

"(3) Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts.

"Claim."

"(g) For purposes of this Act, the term 'claim' includes amounts owing on account of loans insured or guaranteed by the United States and all other amounts due the United States from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources.".

Approved October 25, 1982.

LEGISLATIVE HISTORY—H.R. 4613 (S. 1249):

HOUSE REPORT No. 97-496 (Comm. on Ways and Means).
SENATE REPORTS: No. 97-378 (Comm. on Governmental Affairs) and No. 97-287 (Comm. on Finance) both accompanying S. 1249.
CONGRESSIONAL RECORD, Vol. 128 (1982):
May 4, 5, considered and passed House.
Sept. 27, 28, considered and passed Senate, amended.
Sept. 30, House concurred in Senate amendment with amendments.
Oct. 1, Senate concurred in House amendments.